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IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:	)	
	)	
PETITION TO AMEND RULES 8.4	)	Supreme Court No. R-11-_____
AND 32.10, ARIZONA RULES OF	)	(expedited consideration
CRIMINAL PROCEDURE	)	requested)
_____	)	

Pursuant to Rule 28 of the Rules of the Supreme Court, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully petitions this Court to amend Rules 8.4 and 32.10 of the Arizona Rules of Criminal Procedure as proposed in Appendix A. The amendment modifies the rules to mirror a change in terminology adopted by Laws 2011, Chapter 89, HB 2213.

**I. Background and Purpose of the Proposed Amended Rules.** In pertinent part, HB 2213 updated language appearing throughout the Arizona Revised Statutes by replacing the term “mental retardation” with “intellectual disability.” The proposed amendment will make a corresponding change to the two procedural rules that use the term “mental retardation.”

**II. Preliminary Comments.** This petition has not been sent to the court community for pre-filing comments because of its technical nature and due to the short period of time since the bill's enactment.

**III. Request for Emergency Adoption.** The 2011 legislative session regular effective date of July 20, 2011 applies to the language changes made by HB 2213. Petitioner therefore requests expedited adoption of the proposed amended rule with a formal comment period to follow, as permitted by Supreme Court Rule 28(G).

RESPECTFULLY SUBMITTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

By \_\_\_\_\_  
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## APPENDIX A

(language to be deleted is shown with ~~strike-through~~, new language is underlined)

### Arizona Rules of Criminal Procedure

#### Rule 8.4. Excluded periods

The following periods shall be excluded from the computation of the time limits set forth in Rules 8.2 and 8.3:

a. Delays occasioned by or on behalf of the defendant, including, but not limited to, delays caused by an examination and hearing to determine competency or ~~mental retardation~~ intellectual disability, the defendant's absence or incompetence, or his or her inability to be arrested or taken into custody in Arizona.

b. through g. [no changes]

\* \* \*

#### Rule 32.10. Review of ~~mental retardation~~ intellectual disability determination

Within ten days after the trial court makes a finding on ~~mental retardation~~ intellectual disability, the state or defendant may file a petition for special action with the court of appeals. The filing of the petition for special action is governed by the rules of procedure for special actions, except that the court of appeals shall exercise jurisdiction and decide the issue raised.